

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2009-1-E - ORDER NO. 2009-436

JUNE 19, 2009

IN RE: Annual Review of Base Rates for Fuel Costs	)	ORDER APPROVING
of Carolina Power and Light Company d/b/a	)	AND ADOPTING
Progress Energy Carolinas, Incorporated	)	ADJUSTMENT IN FUEL
	)	COST RECOVERY
	)	FACTOR

This matter comes before the Public Service Commission of South Carolina ("Commission") on the annual review of base rates for fuel costs of Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. ("PEC" or "Company") and for a determination as to whether any adjustment in the fuel cost recovery factor is necessary and reasonable. The procedure followed by the Commission in this proceeding is set forth in S.C. Code Ann. § 58-27-865 (Supp. 2008). Specifically, S.C. Code Ann. § 58-27-865(B) states in part: "Upon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period."

The Parties to the case filed a Settlement Agreement prior to the hearing, attached hereto as Order Exhibit 1. The Parties then moved to schedule a hearing on Thursday, June 11, 2009, at which the Commission would perform its review of the evidence

supporting the proposed Settlement Agreement and decide whether the proposal would be approved. The Joint Motion was granted by the Commission.

By statute, the Commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State. S.C. Code Ann. Section 58-3-140 (A) (Supp. 2008).

Further, the Settlement Policies and Procedures of the Commission (Revised 6/13/2006) are pertinent to the matter before the Commission and consistent with its statutory duties. Section II of that document (“Consideration of Settlements”) states:

When a settlement is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement for the Commission’s consideration of the settlement. For example, the Commission may summarily accept settlement of an essentially private dispute that has no significant implications for regulatory law or policy or for other utilities or customers upon the written request of the affected Parties. On the other hand, when the settlement presents issues of significant implication for other utilities, customers, or the public interest, the Commission will convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. Approval of such settlements shall be based upon substantial evidence in the record.

In accordance with its above-described statutory duties, the Commission held a public hearing at the offices of the Commission on June 11, 2009, at which the Commission considered the evidence in support of the proposed settlement to determine whether the proposal was just, fair and reasonable, consistent with the public interest, and in accordance with law and regulatory policy of the Commission. The Honorable Elizabeth B. Fleming, Chairman, presided. Len S. Anthony, Esquire, represented the Company. Nanette S. Edwards, Esquire, and Shealy Boland Reibold, Esquire, represented the South Carolina Office of Regulatory Staff (“ORS”). Robert R. Smith, II, Esquire, represented Nucor Steel-South Carolina (“Nucor”). ORS, Nucor, and PEC are collectively referred to as the “Parties” or sometimes individually as “Party.”

At the beginning of the hearing, the Parties presented the Settlement Agreement, which was filed with the Commission on May 28, 2009 and admitted into the record as Hearing Exhibit 1. In the Settlement Agreement, the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party’s interests and the public interest would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

PEC presented the testimonies of Dewey S. Roberts, II and Bruce P. Barkley. ORS followed PEC and presented the testimonies of Leigh C. Ford and Robert A. Lawyer. The pre-filed testimony was entered into the record as if read from the stand and the exhibits of each witness were entered into the record without objection as Composite Hearing Exhibits 2, 3, 4, and 5, respectively.

Dewey S. Roberts presented direct testimony on behalf of the Company. He testified PEC had prudently operated and dispatched its generation resources during the review period to minimize fuel costs. PEC witness Bruce P. Barkley presented both direct and settlement testimony on behalf of the Company, and sponsored the Settlement Agreement. Mr. Barkley testified that the Agreement, which sets forth a reduced fuel factor, is in the public interest and allows PEC to recover its just, reasonable, and prudent fuel costs in an equitable and fair manner and properly implements the intent and spirit of § 58-27-865.

Both of ORS's witnesses testified in support of the Settlement Agreement. Ms. Ford's testimony in support of the Settlement Agreement presented the ORS Electric Department's findings and recommendations resulting from ORS's review of the Company's fuel expenses and power plant operations used in the generation of electricity for the period under review. The testimony supported the terms of the Settlement Agreement regarding the appropriate fuel factors for PEC to charge for the period beginning with the first billing cycle in July 2009 and continuing through the last billing cycle of June 2010, which are listed in the table below:

<b>Class</b>	<b>Base Fuel Cost Component (cents/kWh)</b>	<b>Environmental Fuel Cost Component (cents/kWh)</b>	<b>Total Fuel Costs Factor (cents/kWh)</b>	<b>Increase for RECD</b>
Residential	3.002	0.032	3.034	3.059 <sup>1</sup>
General Service (non-demand)	3.002	0.028	3.030	3.030
General Service (demand)	3.002	0.000 <sup>2</sup>	3.002	3.002
Lighting	3.002	0.000	3.002	3.002

Mr. Robert A. Lawyer presented the results of the ORS Audit Staff's examination of PEC's books and records pertaining to the Fuel Adjustment Clause operation for the period of March 2008 through June 2009. The Parties agreed to accept all adjustments as set forth in the testimony of ORS witnesses Ford and Lawyer.

The Total Fuel Cost Factors include .079 cents per kWh to recover the under-recovered base fuel cost balance as of June 30, 2009, which is projected to be \$5,434,538. This amount consists of historical under-recovered costs for the period March 1, 2008 through February 28, 2009, offset by the estimated over-recovery for the period of March 1, 2009 through June 30, 2009.

The Settlement Agreement provides that the Parties will work together in good faith to evaluate a time-of-use fuel factor mechanism for PEC, which would provide more

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<sup>1</sup> Residential Service Energy Conservation Discount (RECD) factor is .83%.

<sup>2</sup> The environmental rate for these customers is 10 cents per kW.

accurate price signals to customers through a higher fuel factor during on-peak periods and a lower fuel factor during off-peak periods. If the Parties agree that such a time-of-use fuel factor mechanism can be developed and would be in the public interest, the Parties shall work together in good faith to attempt to fully develop such a mechanism and, if developed, to submit such proposal to the Commission for approval.

The Settlement Agreement further provides that PEC will continue to provide to the Parties copies of the monthly fuel recovery reports currently filed with the Commission and ORS and quarterly forecasts of the expected fuel factor to be set in PEC's next annual fuel proceeding and PEC's historical over/under-recovery. The Parties agree that any and all challenges to PEC's historical fuel costs and revenues for the period ending February 28, 2009, are not subject to further review. However, fuel costs and revenues for periods beginning March 1, 2009, and thereafter shall be open issues in future proceedings and will continue to be trued-up against actual costs in such proceedings.

After careful review of the Settlement Agreement, and after having heard the testimony of the witnesses and representations of counsel, the Commission finds that approval of the Settlement Agreement is consistent with the standards for fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865. The Settlement Agreement allows recovery in a precise and prompt manner while assuring public confidence and minimizing abrupt changes in charges to customers. As such, it is a reasonable resolution of the issues in this case and stabilizes the fuel factors through the last billing cycle of June 2010. Additionally, the Commission finds that the resolution

espoused in the Settlement Agreement does not appear to inhibit economic development. Finally, the Commission finds and concludes that the Settlement Agreement affords the Parties with the opportunity to review costs and operation data in succeeding fuel proceedings.

IT IS THEREFORE ORDERED THAT:

1. The fuel purchasing practices, plant operations, and fuel inventory management of PEC related to the historical fuel costs and revenues for the period ending February 28, 2009, are prudent.

2. The Settlement Agreement is hereby approved, adopted, and incorporated herein by reference, and is found to be a just and reasonable resolution of the issues in this case.

3. PEC shall set its fuel factor (not including the environmental component or the RECD component) at 3.002 cents per kWh effective for bills rendered on and after the first billing cycle of July 2009, and continuing through the billing month of June 2010.

4. PEC shall set its environmental component billing factor at 0.032 cents per kWh for the Residential class, 0.028 cents per kWh for the General Service (non-demand) class, and 10 cents per kW for the General Service (demand) class for bills rendered on or after the first billing cycle of July 2009 and continuing through the billing month of June 2010.

5. PEC shall set its Residential Service Energy Conservation Discount (RECD) component billing factor at .025 cents per kWh for the residential class for bills

rendered on or after the first billing cycle of July 2009 and continuing through the billing month of June 2010. The RECD component allows PEC to reflect monthly fuel revenues which account for a 5 percent discount provided to approximately 17 percent of PEC's South Carolina residential sales under approved Rider RECD.

6. The Parties shall work together in good faith to evaluate a time-of-use fuel factor mechanism for PEC. If the Parties agree that such a time-of-use fuel factor mechanism can be developed and would be in the public interest, the Parties shall work together in good faith to attempt to fully develop such a mechanism and, if developed, to submit such proposal to the Commission for approval.

7. The Parties shall abide by the terms of this Settlement Agreement.

8. PEC shall file an original and ten (10) copies of the South Carolina Retail Adjustment for Fuel and Variable Environmental Costs Rider and all other retail Tariffs within ten (10) days of receipt of this Order with the Commission and ORS.

9. PEC shall comply with the notice requirements set forth in S.C. Code Ann. § 58-27-865.

10. PEC shall utilize the methodology for developing the environmental component billing factor for each rate class to recover "variable environmental costs" under S.C. Code Ann. § 58-27-865(A)(1) established by the Settlement Agreement in Docket No. 2007-1-E and approved in Order No. 2007-440.

11. PEC shall continue to file the monthly reports as previously required.

12. PEC shall, by rate class, account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel

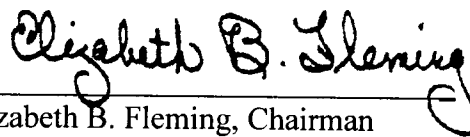


costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit.

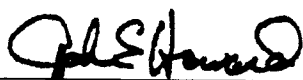
13. PEC shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman  
(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2009-1-E**

**May 28, 2009**

IN RE:	)	
	)	
Carolina Power & Light Company, d/b/a	)	<b>SETTLEMENT AGREEMENT</b>
Progress Energy Carolinas, Inc.	)	
Annual Review of Base Rates for Fuel Costs)	)	
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This Settlement Agreement is made by and among the South Carolina Office of Regulatory Staff ("ORS"), Nucor Steel – South Carolina ("Nucor"), and Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc., ("PEC") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina ("Commission") pursuant to the procedure established in S.C. Code Ann. §58-27-865 (Supp. 2008), and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have varying legal positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions to determine if a settlement would be in their best interest;

WHEREAS, following these discussions the Parties have each determined that their interest and the public interest would be best served by settling matters in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the direct and settlement testimony and exhibits of the following witnesses without objection, change, amendment or cross-examination.

A. PEC witnesses:

- (1) Bruce P. Barkley
- (2) Dewey S. Roberts II

B. ORS witnesses:

- (1) Robert A. Lawyer
- (2) Leigh C. Ford

The Parties further agree to work collaboratively to submit testimony in support of this Settlement Agreement as set forth by the Commission's settlement procedures.

2. As a compromise, all Parties adopt, accept, and acknowledge as the agreement of the Parties that:

- A. PEC's cumulative (under)-recovered fuel cost balance for the period ending June 2009 is projected to be (\$5,434,538).
- B. The appropriate fuel factors for PEC to charge for the period beginning with the first billing cycle in July 2009 extending through the last billing cycle of June 2010 are listed below. These fuel factors include environmental costs and the (under)-recovered fuel costs.

Class	Base Fuel Cost Component (cents/kWh)	Environmental Fuel Cost Component (cents/kWh)	Total Fuel Costs Factor (cents/kWh)	Increase for RECD
Residential	3.002	0.032	3.034	3.059 <sup>1</sup>
General Service (non-demand)	3.002	0.028	3.030	3.030
General Service (demand)	3.002	0.000 <sup>2</sup>	3.002	3.002
Lighting	3.002	0.000	3.002	3.002

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<sup>1</sup> RECD factor is .83%

<sup>2</sup> The environmental rate for these customers is 10 cents per kW.

- C. The Parties agree the fuel factors set forth above are consistent with S.C. Code Ann. § 58-27-865 (Supp. 2008). The Parties further agree that any and all challenges to PEC's historical fuel costs recovery for the period ending February 28, 2009, are not subject to further review; however, the projected fuel costs for periods beginning March 1, 2009, and thereafter shall be open issues in future fuel costs proceedings held under the procedure and criteria established in S.C. Code Ann. § 58-27-865.
- D. Except as expressly set forth herein, this Settlement Agreement in no way constitutes a waiver or acceptance of the position of any Party concerning the requirements of S.C. Code Ann. §58-27-865 in any future proceeding.
- E. The Parties agree to accept all accounting and other adjustments as put forth in the testimony of ORS witnesses Lawyer and Ford.
- F. PEC agrees to continue to provide to the Parties the following:
  - (1) Copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and,
  - (2) Quarterly forecasts of the expected fuel factor to be set at PEC's next annual fuel proceeding and PEC's historical over/(under)-recovery to date. PEC agrees it will put forth its best efforts to forecast the expected fuel factor to be set at its next annual proceeding. All Parties agree that these quarterly forecasts will not be admitted into evidence in any future PEC proceedings.
- G. Nothing contained in this Settlement alters, amends, or changes the methodology established for determining the environmental factor for PEC's rate classes as set forth in Paragraphs 3(B) and (C) of the Settlement Agreement filed with and approved by the Commission in Docket No. 2007-1-E.
- H. The Parties agree to work together in good faith to evaluate a time-of-use fuel factor mechanism for PEC, which would provide more accurate price signals to customers through a higher fuel factor during on-peak periods and a lower fuel factor during off-peak periods. If the Parties agree that such a time-of-use fuel factor mechanism can be developed and would be in the public interest, the Parties shall work together in good faith to attempt to fully develop such a mechanism and, if developed, to submit such proposal to the Commission for approval.

3. The Parties agree this Settlement Agreement is reasonable, in the public interest, and in accordance with law and regulatory policy.

4. Further, ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code §58-4-10(B) (Supp. 2008). S.C. Code §58-4-10(B)(1) through (3) reads in part as follows:

“...‘public interest’ means a balancing of the following:

- (1) Concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) Economic development and job attraction and retention in South Carolina; and
- (3) Preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”

5. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

6. This written Settlement Agreement contains the complete agreement of the Parties. There are no other terms or conditions to which the Parties have agreed. This Settlement Agreement integrates all discussions among the Parties into the terms of this written document. The Parties agree that this Settlement Agreement will not constrain, inhibit or impair their arguments or positions held in future proceedings, nor will the Settlement Agreement or any of the matters agreed to in it be used as evidence or precedent in any future proceeding. If the Commission should decline to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty, by providing written notice of intent to do so within five (5) working days of notice of the

Commission's decision not to approve the Settlement Agreement in its entirety. In the event any Party withdraws under such circumstances, then the Settlement Agreement is null and void and each Party shall have the opportunity to present evidence and advocate its position in the proceeding, and the Parties shall work together in good faith to develop and propose a new procedural schedule to put the Parties back in the position they were prior to the settlement.

7. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capabilities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

8. This Settlement Agreement shall be interpreted according to South Carolina law.

9. This Settlement Agreement is and shall be deemed for all purposes to have been prepared for the benefit of and through the joint efforts of the Parties hereto and shall not be construed or interpreted against the Party originating or preparing it.

10. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

11. Each numbered or lettered subsection or paragraph herein is for reference only and has no substantive meaning.

12. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one original and provable copy of this Settlement Agreement.

13. This Settlement Agreement fully represents the entire agreement of the Parties with respect to the matters addressed herein and supersedes all prior conversations, documents, and agreements (express or implied) in this Docket No. 2009-1-E. No terms or conditions of this Settlement Agreement may be modified or waived except by an instrument in writing duly signed by or on behalf of each of the Parties.

SIGNATURE PAGES FOLLOW

WE AGREE:

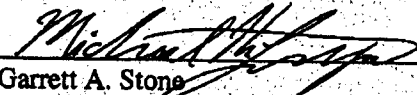
**Representing and binding the South Carolina Office of Regulatory Staff**

Shealy Boland Reibold  
Shealy Boland Reibold, Esquire  
**South Carolina Office of Regulatory Staff**  
1401 Main Street, Suite 900  
Columbia, SC 29201  
Phone: (803) 737-0800  
Fax: (803) 737-0895  
Email: [sreibol@regstaff.sc.gov](mailto:sreibol@regstaff.sc.gov)



WE AGREE:

Representing and binding Nucor-Steel

  
Garrett A. Stone  
Michael K. Lavanga  
**Brickfield, Burchette, Ritts & Stone, P.C.**  
1025 Thomas Jefferson Street, NW  
Eighth Floor - West Tower  
Washington, DC 20007  
Phone: (202) 342-0800  
Fax: (202) 342-0807  
Email: [gas@bbrslaw.com](mailto:gas@bbrslaw.com)

Thomas S. Mullikin  
Robert R. Smith, II  
**Moore & Van Allen, PLLC**  
100 North Tryon Street, Ste. 4700  
Charlotte, NC 28202

WE AGREE:

**Representing and binding Carolina Power & Light Company, d/b/a Progress Energy  
Carolinas, Inc.**

A handwritten signature in black ink, appearing to read "Len S. Anthony", is written over a horizontal line.

Len S. Anthony

General Counsel

P.O. Box 1551

Raleigh, NC 27602

Phone: (919)546-6367

Fax: (919)546-2694

Email: [len.s.anthony@pegenmail.com](mailto:len.s.anthony@pegenmail.com)